

Atty. Dkt. No. 074022-3302

REMARKS

A detailed listing of all claims that remain under examination in the application is presented with the appropriate defined status identifier.

Claims 1-6, 18, 19, 51-58 and 61 have been amended herein. The amendments to the claims clarify the invention that the Applicant desires to pursue and the raise no issue of new matter. In order to reduce the issues and expedite prosecution Claims 39-50 have been canceled without prejudice or disclaimer by way of the present communication. Applicant expressly reserves the right to pursue canceled subject matter in continuation or divisional applications claiming priority to the instant application.

Thus, claims 1-12, 18, 19, 23, 25-34, 36-38 and 51-62 are currently pending in the instant application.

Interview Summary

Applicants thank Examiner Forman for the courtesies extended in the telephone interview of November 7, 2005. Examiner Forman initiated the telephone interview and invited Applicants to submit the instant Amendment and attached Terminal Disclaimer. The amendments and remarks herein, and the Terminal Disclaimed submitted herewith, reflect the discussion with Examiner Forman, and the conclusion that such submissions may place the case in condition for allowance.

During the telephone interview, the examiner suggested that the "wherein" clause of certain claims was not clear because it did not specify whether the "channels" recited in the clause refer to channels in one particular layer, or to the channels in all layers. Although Applicants do not believe that this rises to the level of indefiniteness, in the interests of moving this case to allowance, Applicants have agreed to amend the claims.

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The Examiner further suggested that references in the claims to "said functional layer" be amended to "said optically functional layer". The claims have been amended accordingly.

The Examiner also indicated that all claims would be rejected under the judicially created doctrine of obviousness-type double patenting in view of U.S. Patent 6,933,112. A terminal disclaimer over the '112 Patent is submitted herewith. On acceptance of the disclaimer, reconsideration and withdrawal of the double patenting rejection is respectfully requested.

CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if there are any remaining issues in the case.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

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Respectfully submitted,

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